

## Department of Energy

## § 719.14

(b) The General Counsel may authorize exceptions based on a recommendation of Department counsel. The General Counsel may also establish exceptions to this part based on current field office and contractor practices which satisfy the purpose of these requirements.

(c) Exceptions to this part which are also a deviation from the cost principles (see subpart D of this part) must be approved by the Procurement Executive. See 48 CFR (FAR) 31.101. Written requests from contractors for a deviation to a cost principle must be submitted to the contracting officer, with a copy provided to Department counsel.

### Subpart B—Legal Management Plan

#### § 719.10 What information must be included in the legal management plan?

The legal management plan must include the following items:

(a) A description of the legal matters that may necessitate handling by retained legal counsel.

(b) A discussion of the factors the contractor must consider in determining whether to handle a particular matter utilizing retained legal counsel.

(c) An outline of the factors the contractor must consider in selecting retained legal counsel, including:

(1) Competition;

(2) Past performance and proficiency shown by previously retained counsel;

(3) Particular expertise in a specific area of the law;

(4) Familiarity with the Department's activity at the particular site and the prevalent issues associated with facility history and current operations;

(5) Location of retained legal counsel relative to:

(i) The site involved in the matter,

(ii) Any forum in which the matter will be processed, and

(iii) Where a significant portion of the work will be performed;

(6) Experience as an advocate in alternative dispute resolution procedures such as mediation;

(7) Actual or potential conflicts of interest; and

(8) The means and rate of compensation (e.g., hourly billing, fixed fee, blended fees, etc.).

(d) A description of:

(1) The system that the contractor will use to review each case to determine whether and when alternative dispute resolution is appropriate;

(2) The role of in house counsel in cost management;

(3) The contractor's process for review and approval of invoices from outside law firms or consultants;

(4) The contractor's strategy for interaction with, and supervision of, retained legal counsel;

(5) How appropriate interaction with the contracting officer and Department counsel will be ensured; and,

(6) The contractor's corporate approach to legal decision making.

#### § 719.11 Who must submit a legal management plan?

Contractors identified under paragraphs (a) and (b) in § 719.3 must submit a legal management plan.

#### § 719.12 When must the plan be submitted?

Contractors identified under paragraphs (a) and (b) in § 719.3 must submit a legal management plan within 60 days following the execution of a contract with the Department.

#### § 719.13 Who at the Department must receive and review the plan?

The contractors identified under paragraphs (a) and (b) in § 719.3 must file a legal management plan with Department counsel.

#### § 719.14 Will the Department notify the contractor concerning the adequacy or inadequacy of the submitted plan?

(a) The Department will notify the contractor within 30 days of the contractor's submission of the plan of any deficiencies relating to requirements in § 719.10.

(b) The contractor must either correct identified deficiencies within 30 days of notice of the deficiency or file a letter with the General Counsel disputing the determination of a deficiency.